Before the
Federal Communications Commission
Washington D.C. 20554

In the Matter of

Application by	)	
SBC Communications Inc.,	)	
Michigan Bell Telephone Company, and	)	
Southwestern Bell Communications Services,	)	
Inc. for Provision of	)	
In-Region, InterLATA Services	)	WC Docket No. 03-16
In Michigan	)	

COMMENTS OF WORLDCOM, INC.

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INTRODUCTION AND EXECUTIVE SUMMARY

SBC files for section 271 authorization in Michigan while its performance reporting is incontrovertibly deficient. Both BearingPoint and Ernst & Young concluded as much, and the Michigan Commission agreed, explaining that "[a]t this time, the Commission cannot conclude that SBC's performance metric reporting process has fully achieved a level of stability and dependability which will be required in the post-Section 271 environment to permit continued monitoring and assurances against discriminatory behavior."[1] Indeed, without dependable performance reporting, there is no basis to conclude that SBC provides non-discriminatory OSS today, much less that there is sufficient assurance against future backsliding.

And in fact SBC does not provide nondiscriminatory OSS today. In its commercial operations, WorldCom continues to experiences a number of important OSS problems. In particular, SBC erroneously returns completion notices on orders it has not completed – and informs WorldCom of this fact via e-mail rather than via fully automated processes, unnecessarily requests additional information from CLECs on requests for new lines – and transmits these requests via fax, erroneously cancels WorldCom orders – without informing WorldCom of this at all, often fails to provision the features and options requested on CLEC orders, fails to process WorldCom orders to disconnect service, makes repeated mistakes in transmission of line loss reports, and appears to transmit very inaccurate wholesale bills. While some of these problems may not seem critical individually, collectively they substantially hinder WorldCom's ability to compete.

Many of these problems have become apparent only in recent weeks. But some of them were recognized as problems by the Michigan Public Service Commission ("PSC"), along with

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[1] MI PSC Report at 22.

SBC's defective performance reporting. The PSC ordered SBC to present a plan to fix known deficiencies and to complete testing of performance metrics with BearingPoint. But the PSC nonetheless concluded that SBC's section 271 application should be granted.

That is not how the section 271 process is supposed to work. SBC is supposed to comply with the Act before not after section 271 authorization. It is supposed to show nondiscriminatory OSS at the time it applies based on dependable and accurate performance measures, and to show that it has in place a plan that will prevent future backsliding. It has not done so. As a result, its application must be denied.

SBC's application must be denied for one other reason as well. SBC does not provide access to directory listings (as opposed to directory services) at cost-based rates. The Michigan Commission itself concluded as much, but nonetheless recommended approval of SBC's application based on the mistaken belief that an SBC tariff filing had fixed the problem. But that tariff was based on the same cost studies that the Commission had already concluded were inadequate. WorldCom has therefore has asked for reconsideration by the Michigan Commission, but until SBC's rates are fixed, its 271 application must be denied for this reason as well.

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FCC ORDERS	
DAL Order	Provision of Directory Listing Information Under the Telecommunications Act of 1934, as Amended, CC Docket No. 99-273, First Report and Order, 16 F.C.C.R. 2736, FCC No. 01-27 (2001).
Georgia/Louisiana Order	In re Joint Application by BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc for Provision of In-region, InterLATA Services in Georgia and Louisiana, CC Docket No. 02-35, Memorandum Opinion and Order, 17 F.C.C.R. 9018, FCC 02-147 (2002).
SBC Order	In re SBC Communications, Inc., DA 00-2858, Notice of Apparent Liability for Forfeiture, 16 F.C.C.R. 1140 (2000).
Texas Order	In re Application by SBC Communications Inc., Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance Pursuant to Section 271 of the Telecommunications Act of 1996 To Provide In-Region, InterLATA Services in Texas, CC Docket No. 00-65, Memorandum Opinion and Order, 15 F.C.C.R. 18354, FCC 00-238 (2000).
UNE Order	In re Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, Third Report and Order, 15 F.C.C.R. 3696, FCC 99-238 (1999)

DECLARATIONS AND AFFIDAVITS	
Cottrell Aff.	Affidavit of Mark Cottrell on Behalf of SBC Communications (SBC Appl. App. A, Tab 6).
Dolan & Horst Aff.	Affidavit of Daniel Dolan and Brian Horst on Behalf of SBC Communications (SBC Appl. App. A, Tab 8).
Her Aff.	Affidavit of James Ehr on Behalf of SBC Communications (SBC Appl. App. A, Tab 9).
Lichtenberg Decl.	Declaration of Sherry Lichtenberg on Behalf of WorldCom, Inc. (attached as Tab 1 hereto).
Defect Report	CELC Defect Report, attached to Declaration of Sherry Lichtenberg on Behalf of WorldCom, Inc. (attached as Tab 2 hereto).
STATE COMMISSION MATERIALS	
MI PSC Order	In re on the Commission's Own Motion, to Consider SBC's Compliance with the Competitive Checklist in Section 271, Case No. U-12320, Opinion and Order Approving Report on SBC's Compliance with section 271 (MI PSC Jan. 13, 2003) (SBC Appl. App. C, Tab 134).
MI PSC Report	In re on the Commission's Own Motion, to Consider SBC's Compliance with the Competitive Checklist in Section 271, Case No. U012320, Consultative Report (MI PSC Jan. 13, 2003) (SBC Appl. App. C, Tab 133).
WorldCom Reh'g Pet.	In re on the Commission's Own Motion, to Consider SBC's Compliance with the Competitive Checklist in Section 271, Case No. U012320, WorldCom Petition for Rehearing with Respect to Rates Charged for Directory Assistance Listings and attachments A-H (MI PSC Jan. 24, 2003) (attached hereto as Tab 3).

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COMMENTS OF WORLDCOM, INC.

SBC files its first section 271 application for the former-Ameritech region since the Commission denied its application for Michigan in 1997. SBC's application must be denied. The third-party tester chosen by the Michigan Public Service Commission, BearingPoint, has found a multitude of problems with SBC's performance reporting and has not concluded that those problems have yet been corrected. The tester hired by SBC – Ernst & Young – has found many similar problems. And the Michigan Commission itself has concluded that SBC's performance reporting is not yet acceptable today. But without acceptable performance reporting, SBC cannot show that there is a plan in place that will prevent future backsliding. Nor can it even show that it provides non-discriminatory performance to CLECs today.

Indeed, in addition to finding deficiencies in SBC's performance reporting, the Michigan Commission noted some continued deficiencies with SBC's OSS. And WorldCom continues to experience a number of important OSS problems in commercial operation. The Michigan Commission concluded that these, like SBC's performance reporting, could be fixed after section

271 approval. But the point of section 271 is to ensure that a BOC meets the requirements of the Act before it provides long distance service. SBC has not done so.

We begin by discussing the OSS problems that WorldCom is experiencing in commercial operation. We then discuss the inadequacies in SBC's performance reports. We conclude by describing SBC's failure to provide access to directory listings at cost-based rates.

I. SBC'S OSS DOES NOT FUNCTION AS IT SHOULD

WorldCom entered the market in Michigan in December 2000. Over the past two years, WorldCom has faced a number of significant problems with SBC's OSS, many of which have now been fixed. But some problems have continued and new ones repeatedly appear. In addition, as WorldCom has begun submitting orders for new lines (as opposed to migrations) in recent months, it has discovered additional problems of which it was not previously aware. At present, WorldCom continues to face a number of important OSS problems that collectively hinder its ability to compete.

A. Pre-Order Outages

SBC's pre-order interfaces have experienced outages on a regular basis. That problem has continued in recent months. In November 2002, WorldCom was unable to access SBC's pre-order systems 8 times, with outages averaging more than an hour. In December 2002, WorldCom was unable to access SBC's pre-order systems four times, with each outage averaging more than an hour. And in January 2003, WorldCom was unable to access SBC's pre-order systems four times, with outages averaging approximately 20 minutes.[2]

[2] Lichtenberg Decl. ¶3.

While the January numbers represent somewhat of an improvement, they are still far too high. Without access to pre-order information, WorldCom cannot place orders. Pre-order interfaces should be available almost all of the time, with outages occurring very rarely.[3]

B. Transmission of Incorrect Completion Notices

SBC recently has informed WorldCom that it is transmitting completion notices on some orders that have not actually been completed. In early January, SBC transmitted to WorldCom via e-mail a list of six orders on which it had erroneously transmitted a completion notice. SBC then transmitted a similar e-mail on January 28, 2003 with an additional seven orders.[4] SBC originally told WorldCom that the problem of erroneous completion notices had been corrected on January 9. But it has not been corrected.

WorldCom is quite concerned about this problem in part because the errors that SBC has acknowledged likely are not the only such errors. We say this for two reasons. First, it is now clear that either the event that triggers transmission of a completion notice is something other than completion of an order or that SBC's service representatives are still not adequately trained in the business rules and processes necessary to support local competition. In either case, SBC needs to explain what triggers transmission of a completion notice and how SBC protects against transmission of inaccurate notices. Second, WorldCom's own experience bolsters the notion that SBC may be transmitting substantial numbers of inaccurate completion notices. Last Fall, as a result of repeated problems with the line loss information that SBC transmitted to WorldCom,

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[3] Id.

[4] Lichtenberg Decl. ¶4. For most of these customers, SBC explained that WorldCom's orders should have been rejected because the customer should not have been permitted to migrate to WorldCom for a variety of reasons (i.e. "The PON should have been rejected because there was a pending order in the system to migrate the account to another carrier," or "PON should have been rejected because you cannot assume a TN with DSL service," or "Customer migrated to another CLEC prior to WC's change order completion date.").

SBC and WorldCom reconciled their databases to ensure that both SBC and WorldCom knew what customers belonged to each carrier. They found thousands of customers in the five state region who were SBC customers but who WorldCom believed were its customers as a result of erroneous information received from SBC. Much of the problem was caused by SBC's failure to send line losses, but some of the problem likely was also caused by transmission of erroneous completion notices. (On many orders, SBC was not able to provide a root cause of the problem.) There is now reason to believe that this problem has not been fixed.[5]

The impact of erroneous transmission of completion notices is severe. It results in double billing of customers. WorldCom begins billing customers as soon as it receives a completion notice. If the customer has not actually been migrated to WorldCom, however, the customer is also being billed by SBC or by another CLEC.[6]

Moreover, because SBC is notifying WorldCom of erroneous completions via e-mail, there is no simple way for WorldCom to stop billing the customers. SBC should be sending line loss notifications to inform WorldCom of erroneous completions, as these are the notifications set up to automatically stop billing in WorldCom's systems. By instead informing WorldCom of erroneous completion notices via e-mail, SBC forces WorldCom to ensure the proper employees receive SBC's e-mails and then use manual processes to remove customers from the billing systems. SBC has provided no explanation for the failure to send a line loss for these "erroneously migrated accounts;" nor has it assured CLECs that the problem is a random one that will soon be fixed.[7] Indeed, SBC has recently announced in its Illinois 271 filing that it will disband the special team that is apparently responsible for ensuring that problems of this type

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[5] Lichtenberg Decl. ¶¶4-8.
[6] Id. ¶ 5.
[7] Id. ¶ 6.

(including line loss problems) are investigated and corrected. As far as SBC is concerned, there is no more problem, a conclusion not supported by recent events.

SBC's e-mail transmissions are only one example of a more general issue – SBC's use of non-automated processes to send some notices to WorldCom. SBC continues to send a few miscellaneous line loss notifications via e-mail, and, as noted below, sends some "working service conflict" notifications via fax.[8] SBC must eliminate the use of ad hoc processes that are entirely outside the normal flow of automated notices. SBC must also eliminate transmission of erroneous completion notices.

C. Cancellation of Orders

In addition to sending erroneous completion notices on some orders and failing to process disconnect orders, SBC repeatedly cancels some WorldCom orders without justification and without sending proper notice to WorldCom. It also fails to send reject notices on some orders that it properly cancels.

Every day, WorldCom calls SBC to report orders on which it has not received expected completion notices. After SBC researches the issues, it often reports that it erroneously cancelled the orders. Or it reports that it should have sent reject notices on the orders but failed to do so. SBC provides a variety of explanations for these cancellations including both manual errors[9] and systems errors.[10] But the result is the same regardless of the cause. The WorldCom orders are not processed, but SBC fails to inform WorldCom of this fact.

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[8] Id.

[9] Id. ¶¶ 9-10. For example, sometimes SBC service representatives must cancel service orders internally as a result of internal issues but then are supposed to create new service orders so that the WorldCom Local Service Request ("LSR") is not cancelled. They sometimes fail to create the requisite service orders. Or, if they are supposed to cancel the LSR, they fail to send the notice informing WorldCom of that fact.

The number of LSRs that SBC erroneously cancels is significant, but not high in percentage terms. But the problem is important nonetheless. When SBC incorrectly cancels an LSR, the customer does not receive service from WorldCom until WorldCom detects the problem and calls SBC to determine what went wrong. If the order is for a new line, the customer does not receive service at all until WorldCom detects the problem.

At present, WorldCom checks each day to determine whether there are any completion notifications that it has failed to receive within three days of the due date on an order. Based on such checks, WorldCom presently has approximately 360 missing completion notices in the 5 state region.[11]

SBC must stop canceling orders erroneously and must notify WorldCom when it does cancel orders, regardless of the cause.

D. Working Service Conflicts

WorldCom has recently begun submitting orders for new lines in Michigan. Until now, WorldCom has been submitting only migration orders. Unfortunately, however, SBC has a significant problem processing new lines, a problem that AT&T previously highlighted in state

[10] SBC also cancels some orders because WorldCom did not respond to the "working service conflict" form that is described below. But the reason WorldCom did not respond is that SBC failed to send the form to the correct location. And, in any case, SBC needs to notify WorldCom if it cancels an order.

[11] Lichtenberg Decl. ¶¶9-11. Until this week, the impact of the problem was exacerbated because the method SBC insisted on for correcting each error was unnecessarily time consuming. Beginning in October, SBC unilaterally insisted that WorldCom had to call SBC to report missing notifiers rather than using the previously established process under which WorldCom would transmit spreadsheets that included all missing notifiers. SBC would only discuss five orders during a phone call, and it generally took approximately an hour to discuss these five orders. Last week, however, SBC agreed that it would permit WorldCom to provide a trouble ticket directly to the account team if it included more than 15 orders. Hopefully, this will alleviate some of the impact of the cancelled orders.

proceedings, and that WorldCom too is experiencing now that it is submitting orders for new lines.

When a CLEC transmits a request for new service, or additional service such as a second line, SBC needs to determine whether to dispatch a technician to install the new line. SBC may be able to install service without dispatching a technician if the customer is moving into a home and the previous resident left without turning off the telephone service. SBC may also be able to avoid a dispatch when a customer orders a second line because frequently SBC will have built a second line to the home in order to have spare capacity for a second line order. SBC seems to believe it can determine from the CLEC whether the order should be provisioned using an existing line to the home or an entirely new line. SBC therefore transmits a "working service conflict" form to the CLEC asking for this information.[12]

There are two problems with asking CLECs whether to reuse existing service, however. First, it is not at all clear what information SBC really is asking the CLEC to provide. The CLEC cannot know if there is an extra line in the ground that can be turned up to serve a customer without the need to dispatch technicians. The CLEC may be able to find out from its customer whether he ever had a second line before, but even if he did not, there may well be a second line in the ground that can be used to serve the customer. Moreover, if the CLEC ordering a second line for a customer does tell SBC that it is acceptable to reuse existing service, it risks having SBC reuse the primary line, thus disconnecting the customer. Thus, the information a CLEC can provide regarding the availability of an existing line is likely to be of little use to SBC. Indeed, no other BOC requests such information from CLECs to WorldCom's knowledge. The BOC itself should know if there is service at a premise since the loop is

[12] Lichtenberg Decl. ¶¶ 12-13. See also Cottrell Aff. ¶ 196.

connected to the BOC's switch. It should also know if the service is working since the switch is generating call records.

Second, at present, SBC sends its "working service" requests ***by fax and CLECs must respond by fax***. Thus, after years of efforts to automate ordering, CLECs have been forced to return to the days of processes that are entirely manual. Fax-based processes proved disastrous in the early days after the Act was passed and they have not improved since. Indeed, until last week, SBC was not even managing to send faxes to WorldCom at the number that it requested. As a result, SBC cancelled many WorldCom orders for failure to respond to the working service conflict request and did not even inform WorldCom that it had done so.[13]

SBC should eliminate its requests for working service conflict information. And if there is some reason WorldCom does not now understand that it cannot do so, it must at least automate that process before receiving section 271 approval.

E. Erroneous Provisioning

During the third-party test, BearingPoint found that SBC often fails to provision the features requested by CLECs. That problem continues.

BearingPoint determined that SBC provisions orders accurately only 92 % of the time.[14] SBC often provisions the wrong features or blocking options. Even worse, SBC often transmits the completion notice and billing information to the wrong CLEC because it includes the wrong reseller ID on the CSR. This means that customers are billed by the wrong carrier. In addition, when a customer experiences problems with his line and calls the CLEC that he believes is his carrier, the carrier will not have a record of the customer and will not be able to help him.

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[13] Lichtenberg Decl. ¶¶ 14-15.

[14] MI PSC Report at 67.

SBC's own performance numbers provide no basis for concluding its performance is now acceptable. SBC assesses order accuracy as a percentage of *all* orders, not just manually processed orders. But order accuracy should really be measured only for manually processed orders, as flow-through orders should never be processed inaccurately.

And SBC's own performance data is flawed not only because it includes flow through orders but also because SBC apparently compares SBC's internal service orders to the Customer Service Record ("CSR") instead of comparing the CLECs' Local Service Request to the CSR, as SBC explained in a metrics call on January 30. Thus, SBC never determines whether the provisioned order matches the order received from the CLEC. This is so even though nothing in the business rule for PM 12 permits SBC to check order accuracy without comparing provisioned service to the order actually transmitted by the CLEC.

SBC argues that its failure to update CSRs accurately is no different than what occurs in its retail business,[15] but SBC provides no data to back this claim. What is clear is that SBC is failed the third-party test, SBC refused to permit a retest,[16] and the method SBC set forth in its proposed Compliance Plan for correcting the problem was found inadequate by the state. SBC indicated that it will fix the problem with order accuracy by better training service representatives. But the PSC demanded a more detailed plan for fixing the problem.[17] Given the

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[15] Cottrell Aff. ¶ 70.

[16] On November 19, 2002, BearingPoint posted on its web site the following statement regarding Exception 31: "BearingPoint stated that Ameritech is not passing this benchmark, but stated that Ameritech has requested that BearingPoint not retest this Exception Report."

There are many other exceptions for which SBC also refused to permit retesting – Exception 113 (calculation of PM 2 (% responses received within X seconds) does not follow the business rules); Exceptions 29, 44 and 48, 116 (late transmission of completion notices); Exception 30 (late transmission of mechanized rejects); Exception 171 (late responses to order status query), and Exception 112 (late responses to pre-order queries).

[17] MI PSC Order, at 8.

serious nature of the problem, however, this Commission should require a fix to be in place prior to granting an SBC section 271 application and should require commercial evidence of a successful fix based on a metric that compares provisioned orders to LSRs and includes only manually processed orders.

F. Failure to Process Deactivate Orders

Since early December 2002 SBC has been unable to process deactivate orders transmitted by WorldCom for its customers. Thus, if a WorldCom customer moves away and calls WorldCom to disconnect service, WorldCom is unable to disconnect the customer. When WorldCom transmits a deactivate order to SBC, SBC rejects the order and continues to transmit wholesale bills for the customer. And because it has not received a completion notice on the deactivate order, WorldCom continues to transmit retail bills for the customer.[18]

WorldCom currently has 745 deactivate orders that it cannot successfully transmit and has received numerous customer complaints for continued billing. SBC initially promised to correct the problem on January 3, then promised to do so on January 29, then promised to do so on February 12, and then, after WorldCom escalated the problem, agreed to fix the problem on February 3. But SBC has told WorldCom that the ostensible fix failed in testing. Thus, the problem has not yet been corrected.[19] A successful fix is necessary prior to section 271 approval.

G. Mistakes In Transmission of Line Loss Notifications

Perhaps the biggest OSS problem that WorldCom has faced in the former-Ameritech region involves SBC's failure to transmit line loss notifications for thousands of customers. Line

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[18] Lichtenberg Decl. ¶17.
[19] Id. ¶¶ 18-19.

loss notifications inform CLECs when a customer has left them to migrate to another carrier and without them the CLECs do not know to stop billing the customers.

SBC has repeatedly said that it fixed the problem with line loss notifications and the problem has repeatedly reappeared. Over the last couple months, the problem with line loss notifications did appear to be largely fixed. But then on January 31, 2003, WorldCom stopped receiving line losses from SBC in the proper format. Apparently, SBC mistakenly changed the format of the line loss information it transmits to CLECs and never notified them that it had done so. As a result, WorldCom was not able to read the transmissions from SBC and was unable to read approximately 3,000 line losses as a result.[20]

Based on communications with SBC, WorldCom and SBC worked out a fix for the problem and that fix appears to be working as of today. But the problem should never have arisen in the first place. It indicates the continuation of problems with the line loss process, as well as continuing problems with change management.[21]

In its Order, the Michigan Commission stated the need for further improvements with change management, based in part on SBC's failure to announce recent OSS changes prior to implementation.[22] The Commission also stated the need for further action on line losses and ordered SBC to "immediately provide[] appropriate notice" if it changes line loss procedures.[23] It is now clear just how important much these improvements are needed. Indeed, it is now clear that they should be required before, not after, section 271 approval.

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[20] Id. ¶¶ 20-21.
[21] Id. ¶ 22.
[22] MI PSC Order at 10.
[23] MI PSC Order at 6.

H. Inaccurate Billing

SBC continues to have problems providing accurate bills to CLECs, as CLECs have noted during state proceedings. As a result of a number of internal issues, WorldCom has only recently begun reviewing the accuracy of its wholesale bills. But WorldCom's initial review seems to show significant errors.

In July, for example, WorldCom sent approximately 92,000 transactions to SBC in Michigan. SBC billed WorldCom non-recurring charges for 123,000 transactions. Of the transactions WorldCom sent, 15 were orders for entirely new service; yet SBC charged WorldCom for new service for 1,575 transactions.[24] These are major discrepancies. And the discrepancies continued in subsequent months. WorldCom sent 21 orders for new service in October; yet SBC charged WorldCom for 523 orders. WorldCom sent 13 orders for new service in November; yet SBC billed WorldCom for 439 orders. SBC also included charges associated with USOC NRF6 for every state in the region even though the SBC USOC manual lists this code as applicable only to Michigan. Thus, SBC's wholesale bills appear to be substantially inaccurate.[25]

WorldCom intends to continue reviewing its bills and to raise the billing issues it confirms directly with SBC. WorldCom therefore raises the billing issue here only to foreshadow what it may explain further in its Reply Comments.

But while WorldCom needs to re-check these billing issues, it is hardly surprising that there would be significant billing issues for SBC because SBC apparently does not carefully check its bills before transmitting them to CLECs. During testing, BearingPoint opened

[24] New service can be detected on the bill based on Universal Service Order Code ("USOC") SEPUC, the wholesale new service charge code.

[25] Lichtenberg Decl. ¶ 24.

Exception 119 because of the inadequacy of SBC's auditing process. Apparently, before sending out bills, SBC only reviewed the rates on the bills, not the calculations. And on UNE-P bills, SBC did not review the accuracy of the USOCs. Although SBC says it corrected some of these issues in November, some in December, and others in January,[26] no one has verified that these corrections have occurred. And given the existence of billing problems in commercial operation, SBC's assurances are not an adequate basis to conclude its bills are acceptable. But that is the basis on which the state found SBC's performance to be adequate.[27]

I. General Defects

The cumulative effect of problems caused by SBC's OSS can be seen in part by viewing the defect report that SBC has posted on the web. SBC includes on this report OSS defects in each of its regions -- the former Ameritech region, SWBT region, Pacific Bell region, SNET region, and California specifically. Well over half of the defects listed on the February 5 report (42 of 77) are from the former Ameritech region. And of the 42 defects for the Ameritech region, 40 are listed as severity 2, meaning they have a high impact on CLECs.[28] This is strong evidence that the OSS in the former Ameritech region remains significantly below standard.

II. SBC CANNOT YET ACCURATELY MEASURE ITS PERFORMANCE

The most fundamental reason to reject SBC's section 271 application for Michigan is that its performance data is not yet trustworthy. Both BearingPoint and Ernst & Young found substantial problems with SBC's control over the underlying data and its application of business rules to calculate performance based on the data. Many of those problems have not yet been corrected. As a result, SBC lacks the reliable data needed to demonstrate that its performance in

[26] Cottrell Aff. ¶ 79.
[27] MI PSC Report at 73.
[28] Lichtenberg Decl. ¶ 25.

providing wholesale service is non-discriminatory. It also lacks the measurements needed to prevent backsliding after section 271 authority is granted.

In the Spring of 2000, the Michigan Commission retained BearingPoint (then KPMG) to test SBC's performance metrics reporting and OSS. BearingPoint evaluated SBC's performance reporting from January through March 2002 and again from July through September 2002. SBC delayed completion of the testing, however, by failing to provide BearingPoint with complete business rule documentation until August 2002, more than two years after testing began, and by repeatedly delaying provision of responses to BearingPoint questions. Nonetheless, after extensive testing, BearingPoint released an interim report on September 23, 2002, which it updated on October 30, 2002. That report found severe deficiencies with SBC's performance reporting.

As the Michigan Commission points out, "[n]early half of the applicable BearingPoint testing criteria for this part of the test remained in a 'Not Satisfied' status and determinations on another 40% of the criteria were as yet undetermined."[29] That is a staggering rate of failure. Moreover, in Ohio, BearingPoint filed a newer version of its report on December 20, 2002, which included several more months of data. On page 10 of the Ohio Report, BearingPoint provides a table that shows that SBC has only satisfied 61 of the 303 criteria for Performance Measurements Reporting. Again that level of failure is stunning.

Because it understood that it was unlikely to quickly satisfy BearingPoint's concerns, SBC hired Ernst & Young to conduct a separate audit. Ernst & Young evaluated metrics from March, April and May 2002 (prior to BearingPoint's second round of evaluation) and found many of the same problems as BearingPoint. Indeed, Ernst & Young concluded that "certain

[29] MI PSC Report at 7.

processes used to generate performance measurements, primarily related to the manual collection and processing of data and computer program coding and modifications, did not include certain controls to ensure the accuracy of the reported performance measurements."[30] Ernst & Young also specified 130 instances (including sub-issues) of non-compliance with business rules, as well as listing 49 interpretations of business rules that, as the Michigan Commission noted, did not generally agree with business rule as written.[31]

SBC argues that many of the issues found by BearingPoint and Ernst & Young have now been corrected. And it cites November and December reports from Ernst & Young concluding that corrective action has occurred in many instances. But it is WorldCom's understanding that in evaluating whether SBC took corrective action, Ernst & Young only looked to see whether SBC had made coding changes – it did not determine whether the coding changes resulted in correct calculation of metrics in subsequent months. In other words, Ernst & Young did not determine that the coding changes actually corrected existing problems or were implemented without causing additional problems. Indeed, no facts about the effectiveness of corrections made in October or later will be available until and unless there is an audit of data from succeeding months when the new software is actually generating reports.[32]

Moreover, Ernst & Young did not engage in end-to-end transaction testing. Thus, Ernst & Young, unlike BearingPoint, never evaluated whether the data to which SBC applied its

[30] October 18, 2002 Report of Independent Accountants, Dolan/Horst Aff., Att. C.

[31] MI PSC Report at 19. With respect to the business rule issues, SBC states that CLECs have now agreed to modify many of the business rules to accord with SBC's interpretation. This is true. CLECs did so in exchange for modification of certain remedies and other changes. But this does not mean that SBC's performance reports accurately showed whether it met the benchmarks agreed upon at the time. Moreover, SBC's failure to calculate these metrics correctly underscores its general problem with performance reporting, a problem that is not corrected by negotiating with CLECs to change the rules for these particular measures..

[32] Lichtenberg Decl. ¶¶ 27-28.

metrics actually included all of the orders transmitted by CLECs. And Ernst & Young may well not have reported all of the issues that it found. Unlike the BearingPoint test, Ernst & Young's test was largely closed to public scrutiny. But WorldCom representatives were able to view Ernst & Young's underlying issues list for a day after signing a protective order.[33] Based on that list it is clear that there are many important problems with SBC's performance measurements that were not even raised publicly because Ernst & Young simply accepted assertions of SBC management.[34] The Commission would do well to examine that list.

In any event, even accepting Ernst & Young's reports at face value, Ernst & Young itself concludes that there are many issues that were not resolved until recent months -- and thus would have affected the performance measures on which SBC relies to prove section 271 compliance. And there are many other critical issues that remained unresolved even at the time of SBC's application. There are seventeen exceptions that Ernst & Young concluded had not been fixed as of December 2002. SBC failed, for example, to include certain valid LASR transactions in its performance metrics thus affecting 8 measures and 15 sub-measures. SBC also excluded certain wholesale transactions from its measure Ordering MI 12; it used customer-requested due dates instead of customer-offered due dates in calculating Provisioning PMs 27, and 28; it incorrectly reported certain internal orders as wholesale orders affecting Provisioning PMS 28-33; it incorrectly reported certain LNP with loop orders as loop orders affecting Provisioning PMs 96 and 97, and made numerous other errors. Although SBC argues the errors likely have little impact, it has no way of knowing this without fixing the problem and recalculating the results.

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[33] In Illinois, SBC and Ernst & Young have finally agreed to make this list available to CLECs and to be questioned about it under a protective order.

[34] Lichtenberg Decl. ¶¶ 27-28.

Moreover, Ernst & Young has not said that SBC corrected the general problem Ernst & Young found with lack of controls over collection and processing of data.

The open exceptions from BearingPoint are even more troubling.[35] They include, for example, Exception 19 (Ameritech's data retention policies do not enable thorough and complete audits to be conducted); Exception 20 (procedures and controls for performance measurement calculation and reporting are inadequate); Exception 41 (SBC's metrics change management process does not require communication of changes to source data systems); Exception 133 (SBC does not have adequately defined procedures or tools to test changes to calculation programs, processes and systems involved in the production and reporting of performance metrics); Exception 134 (incorrect population of product name as unknown for approximately 6.2% of total records, affecting as many as 29 performance metrics);[36] Exception 169 (11 percent of transactions needed to validate integrity of 11 Ordering Performance Metrics were missing)); Exception 174 (use of incorrect data in calculation of PM MI 11 (average interface outage notification)); Exception 175 (use of incorrect data in calculation of PM 114 (% of premature disconnects) and PM 115 (% of SBC caused delayed coordinated cutovers)); Exception 176 (failure to include access records in DUF metrics and use of incorrect business rules); Exception 182 (records used in calculation of time to unlock 911 record do not match unprocessed records);[37] Exception 183 (interface outages calculation wrong), Exception 184 (missing trouble reports used in calculation of seven maintenance and repair PMs), and

[35] The exceptions are listed in Ehr Aff. Att. P.

[36] Ernst & Young found this issue as well but simply accepted SBC's assertion that this problem was not important.

[37] Ernst & Young found this issue as well but simply accepted AIT's statements that the problems with the E911 metrics are the result of data collection errors and do not result from real problems with E911 data. Since neither BearingPoint nor Ernst & Young checked that E911 records are correct, the Commission must be certain that the Exception does not represent real problems in the E911 process before it grants its approval.

Exception 185 (124 of 767 ordering transactions not found in performance measurement data provided by SBC). Despite ongoing dialogue with SBC, BearingPoint still is not satisfied that SBC has resolved these problems.

The absence of a third-party determination that performance reporting is reliable is critical. CLECs generally are unable to determine based on their own data whether SBC is accurately reporting its retail data that is used to determine parity. And even with respect to CLEC data, CLECs often are able to evaluate SBC's reporting only in very broad-brush terms. That is because it would be prohibitively expensive for any individual CLEC to duplicate SBC's reporting system with all of the business rules and sub-metrics. WorldCom, for example, has developed reporting systems that use the same business rules for the whole country and that are designed primarily to ferret out the existence of major problems. WorldCom therefore cannot precisely compare its data to SBC's reports and has not attempted to do so.[38] It is therefore essential that WorldCom be able to rely on SBC's reports. Indeed, this Commission has explained that "SBC's failure to follow the Business Rules could lead to inaccurate and unreliable results which would compromise the Commission's ability to monitor effectively SBC's conduct towards other carriers. . . . In addition, inaccurate results will make it difficult for CLECs to determine independently whether there are discrimination problems. Therefore, we must insist on rigorous adherence to the Carrier-to-Carrier Performance Plan."[39] But rigorous adherence does not yet exist.

The Michigan Commission concluded as much. It explained that "work remains to be done to assure that all aspects of SBC's performance measure reporting system will operate smoothly, adequately, with stability and as expected to assure reliability and timeliness of

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[38] Lichtenberg Decl. ¶ 29.

[39] SBC Order ¶ 11.

reported results."[40] It added that "[a]t this time, the Commission cannot conclude that SBC's performance metric reporting process has fully achieved a level of stability and dependability which will be required in the post-Section 271 environment to permit continued monitoring and assurances against discriminatory behavior."[41] The Michigan PSC nonetheless concluded that this work did not need to be completed prior to approval of SBC's section 271 application in part because this Commission approved BellSouth's application in Georgia when a review of BellSouth's performance metrics remained incomplete. But in Georgia, the state had ordered three audits of BellSouth's performance metrics as additional measures were adopted. Georgia/Louisiana Order ¶ 16 n.47. The first two audits had been completed by the time of BellSouth's section 271 application and only two exceptions remained open. In contrast, in Michigan, the only audit ordered by the state commission has not been completed, and a multitude of critical exceptions remain open.

The Michigan Commission has ordered SBC to complete performance testing with BearingPoint and Ernst & Young. That is important. But it is also insufficient. It does not mean that SBC has the data needed to demonstrate section 271 compliance today. Nor does it ensure that SBC has in place today the compliance plan needed to prevent backsliding. The Commission has previously explained that the "reliability of reported data is critical," and "properly validated metrics must be meaningful, accurate and reproducible."[42] Those conditions do not yet exist in Michigan.

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[40] MI PSC Report at 14.

[41] Id. at 22.

[42] Texas Order ¶ 428.

III. SBC DOES NOT PRICE DIRECTORY LISTINGS AT COST

One final reason exists to reject SBC's 271 application: Qwest does not provide directory assistance listings ("DAL") at TELRIC rates, as the Michigan PSC's own rulings make clear. The PSC found that the rates SBC charged prior to April 2002 were not cost-based. Yet SBC's current rates are based on those same cost studies.

When WorldCom provides service to business customers on its own facilities, it provides directory assistance service to those customers. It does not rely on Qwest's directory assistance service. But to provide its own service it must obtain the directory listings from SBC, as other sources of directory listings are far inferior. The FCC has recognized as much, explaining that ILECs "continue to maintain a near total control over the vast majority of local directory listings that form a necessary input to the competitive provision of directory assistance."[43] The Commission has also recognized that ILECs "have the ability to leverage their monopoly control of their DA databases into market dominance."[44] And in relieving the ILECs' of the obligation to offer DA *services* as a UNE where ILECs did not provide customized routing,[45] the Commission relied on the fact that competitors themselves could offer such services based on their access to the underlying databases.[46] Competitors are required to provide access to their underlying databases under section 251(b)(3) of the Act, which requires nondiscriminatory access to directory assistance databases, and also under the unbundling requirements of section

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[43] See DAL Order ¶ 3.

[44] Id. ¶ 3.

[45] Because SBC does not provide customized routing, the Michigan PSC has required it to provide DA services as a UNE. Therefore, for WorldCom's residential customers for whom it cannot currently provide DA services itself, WorldCom has access to SBC's DA services at TELRIC rates. Ironically, however, when WorldCom provides DA service itself, as it is able to do for customers it serves on its own facilities, WorldCom does not have access to the underlying listings at TELRIC rates.

[46] UNE Remand Order ¶ 441. See also DAL Order ¶¶ 3, 6, 10.

251(c)(3).[47] The Michigan Commission has agreed that the non-discriminatory access required by section 251(b)(3) effectively mandates access to DAL at cost-based rates. But SBC does not provide access at cost-based rates.

In a Michigan cost case in April and July 1999 (Case U-11831), WorldCom filed affidavits from Michael Starkey showing that SBC's proposed Michigan rates were not supported by cost studies and that the proposed load per listing rate of $.0280 was 329% higher than the corresponding rate in New York and 2545% higher than the corresponding rate in Texas.[48] The Michigan rate for DAL updates, per listing, of $.0362 was 646% higher than New York and was 2586% higher than the corresponding rate in Texas. These differences add up to significant money, as CLECs order a directory listing for every customer they serve with their own directory listing service.

SBC provided cost studies to support its proposed rates in a confidential filing on December 19, 1999. WorldCom responded with an affidavit from Mr. Starkey explaining that SBC had used a different cost study in calculating its own DAL costs than it used in calculating DAL costs for CLECs and also had spread the costs of DAL over too few carriers.[49] Michigan Staff agreed with both of these points in a report submitted on June 14, 2000[50].

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[47] In the Executive Summary of the UNE Remand Order, the Commission stated that "the order concludes that the following network elements must be unbundled: . . . call related databases, including. . . Operator Services/Directory Assistance databases." Unfortunately, the Commission neglected to mention OS/DA databases in the text of the rules. But there can be no doubt given the Commission's general conclusions about the need for competitor access to these databases that they meet the impairment standard required for unbundling. And in any event, the requirement of non-discriminatory access of section 251(b)(3) independently requires access at cost-based rates.

[48] WorldCom Reh'g Pet., at Att. A and B.

[49] WorldCom Reh'g Pet., at Att. D.

[50] WorldCom Reh'g Pet., at Att. E.

The Michigan Commission agreed as well.[51] But it stated that the issue of whether DAL was a UNE that had to be priced at cost-based rates would have to be resolved in another proceeding. Then, on December 20, 2001,[52] in the 271 docket, the Commission determined that SBC did have to price DAL as a UNE. In response, SBC filed a UNE tariff for DAL in April 2002. But it did so based on the same cost studies the PSC had already rejected. The cover letter to the tariff explained that the cost studies on which it was based "were filed in compliance with that docket (U-11381) on December 19, 1999."[53] (emphasis added). But the December 19, 1999 cost studies were the same ones that WorldCom had criticized and that the PSC itself had rejected.

The April tariff also was not served on other carriers and was not discussed in the 271 docket. Nonetheless, the PSC relied on that tariff in recommending approval of SBC's 271 application. The Commission said simply, "The December order found that the prices were noncompliant. SBC filed a revised tariff in April 2002, and is now compliant with the Commission's requirements in this area."[54] But, as explained, the April 2002 tariff is based on the same cost studies that the Commission previously found non-compliant. WorldCom has therefore asked the PSC to reconsider its ruling. But while SBC's present rates for DAL are in place, SBC's application must be rejected.

CONCLUSION

For the foregoing reasons, SBC's section 271 application should be denied.

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[51] WorldCom Reh'g Pet., at Att. F.
[52] WorldCom Reh'g Pet., at Att. G.
[53] WorldCom Reh'g Pet., at Att. H.
[54] MI PSC Report at 108-09.

Respectfully Submitted,

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February 6, 2003

Certificate of Service

I, Marc Goldman, do hereby certify, that on this sixth day of February, 2003, I have electronically served a true and correct copy of WorldCom, Inc.'s Comments in WC Docket No. 03-16 on the following:

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